

## APPENDIX D

### AUTHORITIES & METHODS FOR DISPOSING OF MINIDOKA NORTH SIDE LAND

#### WITHDRAWN LANDS

A **withdrawal** is a withholding of an area of Federal land from settlement, sale, location, or entry under some or all of the general land laws to (1) limit activity under those laws in order to maintain other public values in the area; (2) reserve the area for a particular public purpose or program; or (3) transfer jurisdiction of the area from one Federal agency to another.

The withdrawn lands involved in this study (the Minidoka North Side Resource Management Plan), were withdrawn from the Bureau of Land Management (BLM) for development of the Minidoka Project, but were not ultimately developed as part of that project or the proposed North Side Extension.

Reclamation, with involvement from the irrigation districts, is determining what lands are still needed for project purposes. Any withdrawn lands that are determined no longer needed for project purposes will in most cases be relinquished to the BLM. A **relinquishment** is a notification to BLM that the lands listed are no longer needed. This notification, however, does not itself terminate the withdrawal (i.e., Reclamation remains responsible for managing the lands until the revocation by BLM is completed). A **revocation** is the actual cancellation of a withdrawal by BLM. (Revocations do not necessarily “open” the land to settlement, sale, location, or entry.) **Restoration** is an administrative action by BLM that restores withdrawn land to the status of unreserved public land, and opens the land to the operation of some or all of the general land laws which could allow settlement, sale, location, or entry. The process for relinquishing withdrawn lands is contained in 43 CFR 2370.

The revocation of withdrawals is the primary method of disposing of withdrawn land, but Reclamation does have limited authority to dispose of withdrawn land through other methods as well, such as by sale or exchange.

The ***Federal Property and Administrative Services Act of 1949 (FPASA)*** authorizes disposal of withdrawn land only when it has been determined not suitable for return to the public domain because it has been substantially changed in character by improvements or otherwise. Again, only if this determination is made, then:

- Property can be turned over to the General Services Administration (GSA) for disposal under the *FPASA*. These disposals are generally through competitive bidding at not less than appraised value, however, there are provisions for Special Purpose disposals for public health or educational uses, public parks or recreational areas, historic monuments, correctional institutions, public airports, and etc.
- Reclamation has been delegated authority under the *FPASA* to dispose of property valued under \$15,000 by means most advantageous to the United States.

There are two other authorities available for disposal of unimproved withdrawn land. They are the *Act of May 16, 1930, Sale of Unproductive Public Land (1930 Act)*, and the *Act of March 31, 1950, Disposal of Small Tracts (1950 Act)*. Both of these Acts are limited to purchasers that qualify as a “resident farm owner” (a farm owner who is actually residing on the farm he owns on the project) or “entryman” (a homestead entryman who is actually residing on the land in his homestead entry on the project).

- The 1930 Act only allows purchase of tracts of not more than 160 acres of temporarily or permanently unproductive land of insufficient size to support a family and that which together with lands already owned or entered on such project, does not exceed 320 acres.
- The 1950 Act only allows purchase of tracts of land too small to be classed as farm units under the Federal reclamation laws, which, together with land already owned or entered on such project, does not exceed 160 irrigable acres.

Improved withdrawn land may also be sold under the *Act of May 20, 1920*. These sales are limited to lands not otherwise reserved, which have been improved at the expense of the reclamation fund. Not more than 160 acres of such lands may be sold to any one person. Such land must be sold at public auction (unless valued under \$300).

Withdrawn land may also be sold under the authority of the *Federal Land Policy and Management Act of 1976 (FLPMA)*. This Act is BLM’s primary disposal authority, and would normally be utilized by that agency if it determined specific parcels met its criteria for disposal.

## ACQUIRED LANDS

Acquired land (as contrasted with withdrawn land) is land that has been purchased or condemned by the United States, or donated to the United States. When Reclamation determines it no longer needs a specific parcel of acquired land located in the study area for project purposes, there are limited authorities for it to dispose of that land.

*Subsection Q of the Factfinders’ Act* authorizes land donated and conveyed to the United States for use in connection with a project to be reconveyed without charge to the donating grantor or to the heirs, successors, or assigns of such grantee.

The *Federal Property and Administrative Services Act of 1949 (FPASA)*

- Property can be turned over to the General Services Administration (GSA) for disposal under the FPASA. These disposals are generally through competitive bidding at not less than appraised value, however, there are provisions for Special Purpose disposals for public health or educational uses, public parks or recreational areas, historic monuments, correctional institutions, public airports, and etc.
- Reclamation has been delegated authority under the FPASA to dispose of property valued under \$15,000 by means most advantageous to the United States.

The *Act of February 2, 1911*

- Property may be sold only through competitive bidding at not less than appraised value.

## EXCHANGES OF LAND

**Exchanges of land** are essentially the acquisition of a property, using other property (rather than money) as the consideration.

Reclamation's predominant exchange authority is the ***Reclamation Project Act of 1939***. That Act provides authority for exchanging Reclamation land (acquired or withdrawn) for privately owned land in connection with the relocation of highways, roadways, railroads, telephone, telegraph or electric transmission lines, or any properties whatsoever, the relocation of which is necessitated by construction, operation, or maintenance of any Reclamation project. While not providing Reclamation a general exchange authority to exchange unimproved land for resource management or land tenure adjustment purposes, this authority is used for making exchanges to:

- relocate physical improvements such as roads, railroads, power lines, and farms where the existing site is needed for Reclamation project purposes and where the discontinuance of the function would cause substantial severance damage or disrupt a public service.
- relocate canals, laterals, drains and other facilities for the purpose of water conservation, efficiency of operation and maintenance, or other Reclamation project purposes.

Under *FLPMA*, BLM can also process exchanges to assist Reclamation in exchanges of acquired or withdrawn land.

